

Service Date: March 6, 1989

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	TRANSPORTATION DIVISION
of Diamond Cab Co., Inc. for)	
Increased Rates and Charges in)	DOCKET NO. T-9338
its Passenger Tariff No. 1)	ORDER NO. 5916

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FINAL ORDER

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APPEARANCES

FOR THE APPLICANT:

J.D. Nybo, Attorney at Law, Box 2048, Great Falls, MT 59403

FOR THE PROTESTANT:

Mary Wright, Staff Attorney, Montana Consumer Counsel, 34 West Sixth Avenue, Helena, MT 59620

FOR THE COMMISSION:

Ivan C. Evilsizer, Staff Attorney, 2701 Prospect Avenue, Helena, MT 59620

BEFORE:

HOWARD L. ELLIS, Commissioner and Hearings Examiner

BACKGROUND

On November 7, 1988, the Montana Public Service Commission (Commission) received an application from Diamond Cab Company, Inc. requesting approval of tariff schedules setting forth new increased rates and charges applicable on Montana Intrastate Commerce. The application proposes to increase rates and charges as follows:

Zone Rates and Charges - between 8.33% to 22.22%.

Accessorial Charges -	<u>Present</u>	<u>Proposed</u>
additional passengers	\$.50	\$.75
wheelchair transport	zone fare	zone fares plus \$3

These increases would apply to the transportation of persons, packages, and articles within the City of Great Falls and a ten mile radius as described in Montana PSC 308.

On December 18, 1988, the Montana Association for the Blind, Inc. filed a protest of the application with the Commission. On December 22, 1988, the Montana Consumer Counsel (MCC) filed a Petition to Intervene in these proceedings, and said intervention was granted.

On December 19, 1988, the Commission issued its order suspending the Applicant's proposed increase in rates and further ordering an investigation into the lawfulness and reasonableness of the proposed rates, pending a public hearing before the Commission at a later date.

A public hearing in the matter was held on January 24, 1989 at the Senior Citizens' Center, 1004 Central Avenue, Great Falls, Montana.

Following the hearing, the parties agreed in writing to waive the provisions of §§ 2-4-621 and 2-4-622, MCA, which would have required the issuance of a proposed order, and an

opportunity for exceptions and argument, prior to a final order. The Commission therefore issues this Final Order herein.

SUMMARY OF TESTIMONY

Richard and Kathleen Leferink, the sole shareholders of Diamond Cab, Inc., were sworn and testified in support of the application.

Richard Leferink testified as to the property owned and leased by the corporation. The building and land used by the corporation is leased from the sole shareholders individually. The corporation also owns vehicles, radio equipment and the PSC Certificate of Public Convenience and Necessity (PSC 308).

Mr. Leferink stated that when he bought the company in October, 1983, their vehicles were in very poor condition, and some drivers were not even earning minimum wage. He began repairing the vehicles and equipment, and increased the drivers' wages.

Mr. Leferink cited the need for additional revenue due to increased costs for workers compensation, gasoline and liability insurance, and decreased revenues due to the cutbacks in the "Care-A-Van" program funded by Montana Deaconess Medical Center, effective May 31, 1988. Mr. Leferink stated that because of the volume generated by the Care-A-Van program, the company has found it unnecessary to seek a rate increase the past two and one-half years. The Applicant has received as much as \$142,733 in annual revenues under the Care-a-van program, to transport patients to and from doctor's offices and hospitals in the Great Falls area.

Mr. Leferink also cited the need for a \$3 accessorial charge for wheelchair transport, in order to provide consistency for such patrons. He stated that under current tariffs, wheelchair transport results in differing charges based upon "waiting time" (first five minutes free, \$1.50 for each additional five minutes).

Kathleen Leferink, co-owner of Diamond Cab Co., Inc., testified as to the Applicant's revenues since they purchased the business in 1983. Their revenues increased each year (except 1985) until 1988, when they fell by approximately \$20,000. She also testified in regards to Applicant's Exhibit No. 3, a list of alternate means of transportation in Great Falls provided by nonprofit organizations.

Virginia Sutich of Sand Coulee, Montana, testified on behalf of the Montana Association for the Blind and other handicapped groups. She stated that she has been a frequent customer of the Cab Company. She also testified as to the limited eligibility standards and hours of availability of the alternate transportation services listed on Applicant's Exhibit No. 3. She protested the affect increased rates would have on handicapped persons and those with limited or fixed incomes, including the proposed wheelchair transport charge.

Randy Barrett, Aging Services Director, who is in charge of transportation for the Great Falls Senior Citizens Centers, also testified as to the limited eligibility standards, limited hours of availability, and costs of the alternate transportation services shown on Applicant's Exhibit No. 3.

A letter dated January 19, 1989 from Sheila Maybanks, Social Worker, was admitted into evidence as MCC Exhibit No. 1. She also opposed the fare increases on the grounds that they would impose a serious hardship to some elderly and low-income people. She also opposed the wheelchair charge.

DISCUSSION AND FINDINGS

The Commission finds that the proposed zone fare increases are necessary to provide Applicant with a reasonable level of revenue with which to operate its business and in order to offset increased costs and the curtailment of the Deaconess Care-a-van program, which had become a major source of revenue.

The Commission finds that it is reasonable that wheelchair patrons bear at least some of the costs occasioned by the additional services provided by the Applicant for such patrons. However, the Commission has determined that the proposed \$3 charge (in addition to the regular zone fare) is excessive and unreasonable. The Commission finds that a wheelchair charge of \$2 (in addition to the regular zone fare) would not be unreasonable, with the following conditions: a) Wheelchair patrons are not assessed a "waiting time" charge, and b) A wheelchair is not counted as a piece of luggage, package or other article, for the purpose of assessing "luggage" and "article" charges. (See Proposed Rules and Regulations, Item 11, Nos. 7, 12 and 13.)

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and matters in this proceeding pursuant to Title 69, Chapter 12, MCA.
2. Revisions of fares, rates, charges and classifications for motor carriers must be approved by the Commission. § 69-12-504, MCA.
3. The Commission has provided adequate notice and opportunity to be heard for all interested persons in this matter. §69-12-505, MCA.
4. The rates and charges approved herein are just, reasonable and nondiscriminatory. §69-12-503, MCA.

ORDER

IT IS HEREBY ORDERED that the application of Diamond Cab Co., Inc. for increased rates and charges applicable on Montana Intrastate Commerce as filed with this Commission on November 7, 1988, is hereby approved, with the exception of the proposed \$3 wheelchair charge, which is disapproved. The Commission instead approves of the imposition of a \$2 wheelchair charge (in addition to regular zone charges) on the following conditions:

- a) No "waiting time" charge may be assessed to wheelchair patrons, and
- b) A wheelchair shall not count as a piece of luggage, article or package for purposes of assessing charges for carrying more than two pieces of luggage or "articles" with a passenger.

The Applicant is directed to file appropriate tariff schedules with the Commission setting forth these changes and limitations upon the imposition of the wheelchair charge.

IT IS FURTHER ORDERED that the suspension order issued by this Commission on December 19, 1988 shall be lifted and the new rates and charges shall be effective upon filing and approval by the Commission of the appropriate tariff schedules as described herein.

Done and dated this 6th day of March, 1989 by a vote of 5 - 0 .

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.